

1 THE HONORABLE JAMES L. ROBART
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GEORGE JOHNSON,

Case No. 2:16-cv-01738-JLR

Plaintiff,

vs.

DONALD P. WANG IN PERSONAM; THE
F/V THOR, OFFICIAL NUMBER 224713,
HER ENGINES, MACHINERY,
APPURTENANCES AND CARGO, IN REM,

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**PARTIES' STIPULATED PRETRIAL
ORDER**

Defendants.

JURISDICTION

Jurisdiction is vested in this Court by virtue of 28 U.S.C. § 1333.

CLAIMS AND DEFENSES

The plaintiff will pursue at trial the following claims: Quantum meruit wages under the general maritime law, and to prevent unjust enrichment to the defendants; double wage penalties and attorney fees for the failure to pay wages, without any bona fide dispute over plaintiff's entitlement; punitive damages for the willful and wanton refusal to pay wages; prejudgment interest.

PLAINTIFF'S PROPOSED PRETRIAL ORDER - 1
CASE NO. 2:16-cv-01738-JLR

JOHN W. MERRIAM
4005 20th Avenue West, Suite 110
Seattle, Washington 98199
T (206) 729-5252 • F (206) 729-1012

1. Because Defendant's counterclaim was terminated on 8/22/2017, Defendant will pursue the following affirmative defenses:
 - a. Lack of consideration
 - b. Fraud
 - c. Unclean hands

ADMITTED FACTS

The following facts are admitted by the parties:

1. The F/V Thor is a 62-foot wooden halibut schooner of 70 gross tons, built 1925 in Tacoma.
 2. Defendant Wang purchased the F/V Thor on July 12, 2016 for \$25,000.
 3. Defendant Wang applied for and was issued a commercial fishing license for the F/V Thor with George Johnson's name on it.
 4. Throughout July and August of 2016, Defendant Wang and plaintiff Johnson engaged in discussions regarding George Johnson skippering the F/V Thor for the 2016 Tuna Season, however the two could not agree on terms.

ISSUES OF LAW

The following are issues of law to be determined by the Court:

1. Is plaintiff entitled to quantum meruit wages if Defendant breached an oral contract of employment?
 2. Is the plaintiff entitled to wages at a higher rate than \$15/hour if Defendant breached his promise to let plaintiff fish the 2016 tuna season?
 3. If the Court finds that there was no contract of employment, is Plaintiff entitled to quantum meruit wages to prevent unjust enrichment to Defendant?

1 4. Are punitive damages available to commercial fishermen asserting wage claims?

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EXPERT WITNESSES

5 On Behalf of Plaintiff: None.

6 On Behalf of Defendant: None

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OTHER WITNESSES

8 On Behalf of Plaintiff:

9 1. Plaintiff himself

10 2. Elwood Latta

11 3. Frank Price

12 4. Steven Alexander

13 5. Rick Beze

14 6. Ray Forsman

15 7. Officer Matthew Huston

16 8. Alexander Oldfin

17 9. Aaron Vantleven

18 10. Donald Wang

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21 On Behalf of Defendant:

22 1. Tom Riedinger

23 2. Donald Wang

3. Defendant reserves the right to call each/all of Plaintiff's witnesses as his own

EXHIBITS

Authenticity stipulated, admissibility disputed:

Plaintiff's Exhibits:

1. Certificate of Documentation for F/V Thor.
 2. General Index or Abstract of Title for F/V Thor.
 3. Primary Operator License (for plaintiff) from the Washington Department of Fish and Wildlife; and a detail of expenditures made by plaintiff for the F/V Thor.

4. Pacific Highly Migratory Species Vessel Permit for F/V Thor and Donald P.

Wang from National Marine Fisheries Service, issued July 28, 2016

5. June – September calendar pages for days and hours worked by plaintiff on the
F/V Thor.

6. Partial List of work performed on the F/V Thor by plaintiff.

7. Transcript of Donald P. Wang deposition

8. Port of Seattle Police Department Report and Supplement Report # 2016-41751

Defendant's Exhibits:

1. United States Coast Guard MISLE Incident Investigation Report For MISLE Case
Number: 472191.

ACTION BY THE COURT

- (a) This case is scheduled for trial without a jury on August 13, 2018.

- (b) Trial briefs shall be submitted to the Court on or before August 6, 2018.

- (c) Each party is allocated 3.75 hours for trial.

**PLAINTIFF'S PROPOSED PRETRIAL ORDER - 4
CASE NO. 2:16-cv-01738-JLR**

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1 THIS ORDER has been approved by the parties by evidenced by the signatures of their
2 counsel. THIS ORDER shall control the subsequent course of the action unless modified by
3 subsequent order. THIS ORDER shall not be amended except by Order of the Court pursuant to
4 agreement of the parties or to prevent manifest injustice.

DATED this 30th day of July, 2018.



JAMES L. ROBART
United States District Judge

12 | Approved as to Form:

13 LAW OFFICE OF JOHN MERRIAM and
Neil Lindquist

By: /s/ John W. Merriam
John W. Merriam, WSBA #12749
4005 20th Avenue West, Suite 110
Seattle, WA 98199
Telephone: (206) 729-5252
Fax: (206) 729-1012
Email: john@merriam-maritimelaw.com

Attorney for Plaintiff

By: /s/ Donald P. Wang
Donald P. Wang
392 Loma Drive, Suite 201
Los Angeles, CA 90017
Telephone: (213) 465-5553
Email: skyway420@live.com
Pro Se Defendant